THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 17281 of 2006

21-08-2006

Between:-

Ganapathi Ramakrishna

Petitioner

And

The Regional Joint Commissioner, Multi Zone-I, Endowments Department, Kakinada, A.P. and five others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 17287 of 2006

Oral order:

Heard the learned counsel for the petitioner and the learned Government Pleader for Endowments for respondent Nos. 1 and 2.

The respondent Nos. 4 to 6 claiming to be the tenants of the lands belonging to Sri Neelayamma Choultry, Dakamarri, Bheemili Mandal, Visakhapatnam distict and claiming benefits under Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'), sought determination and declaration as landless poor persons before the 2nd respondent. The 2nd respondent, by the order dated 23-09-2003 rejected the claims on the ground that the private respondents were

not on record as tenants and never paid rents to the institution. Aggrieved thereby, the 4th respondent and others preferred appeals to the 1st respondent. Appeal No. 47 of 2003 was an appeal so preferred by the 4th respondent. In the said appeal, the petitioner impleaded himself and contended that he had taken the land in question on lease in 1998-99 and is in possession and enjoyment of the same and paying the Maktha to the 3rd respondent Choultry and obtaining receipts. As the 1st respondent was in a doubt as to the claim of the petitioner herein to being a cultivating tenant and without notice of eviction issued to the respondent Nos. 4 to 6 by the 2nd respondent, the 1st respondent remanded the matter to the 2nd respondent for determination after inquiry into all the aspects, by the order dated 22-12-2003. The petitioner's grievance is that the 2nd respondent has not disposed of the matter despite the issues having been remanded as early as on 22-12-2003.

In the aforesaid circumstances, the writ petition is disposed of directing the 2nd respondent to consider and dispose of the issues that have been remanded by the order of the 1st respondent dated 22-12-2003 in Appeal No. 47 of 2003 and other connected appeals. The 2nd respondent should bear in mind that the benefits under

Section 82 of the Act are available only if a person is a lawful cultivating tenant having obtained lease after a process of public auction as stipulated under the relevant statutory rules governing grant of leases of agricultural lands belonging to the religious and endowment institutions and if such person owns or is in cultivation of lands in accordance with the limit specified in Section 82 of the Act. A person does not become a lawful cultivating tenant by merely depositing Makthas which are received either by the Manager or a Trustee of the institution or even by the officials of the Endowments Department. *De facto* occupation or cultivation of lands due to the negligence or connivance of the endowment department officers does not elevate the status of such occupier to a lawful cultivating tenant and such unlawful occupier or cultivator is neither entitled to the benefits under Section 82 of the Act nor to a declaration that he/she is landless poor person within the expression under Section 82 of the Act.

Accordingly the writ petition is disposed of. No costs.

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GODA RAGHURAM, J

Dated:21-08-2006
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